

A
CONCISE NARRATIVE
OF THE
PROCEEDINGS
IN THE
DOUGLAS CAUSE:
WITH
REMARKS upon the MEMORIALS:
IN A
LETTER TO A FRIEND.

— Nothing extenuate,
Nor set down aught in Malice. SHAK.

L O N D O N :

Printed for W. GRIFFIN, in Catharine-Street, in
the Strand. 1767.

[PRICE EIGHTEEN PENCE.]

CONCISE NARRATIVE

OF THE

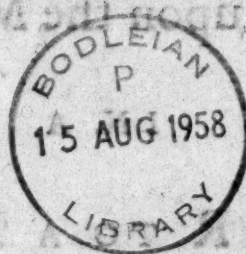
PROCEEDINGS

IN THE

DOUGLAS CAUSE

WITH

REMARKS, AND MEMORIALS



LETTER A FRIEND

—Nothing certain

Not set down right in Mexico. SHAN.

L O N D O N

Printed for W. Griffin, in Catherine-Street, in
the Strand. 1857.

[Price Eighteen Pence]

A
CONCISE NARRATIVE
OF THE
DOUGLAS CAUSE.

IN 1761 the late Duke of Douglas died, devising his estate to Archibald Stewart-Douglas his nephew; at the same time revoking a prior deed of settlement in favour of the family of Hamilton.

Lady Jane Douglas, sister to the Duke, and mother to Archibald, had, in the year 1746, been privately married, at her house near Edinburgh, to colonel Stewart of Grandtully, a gentleman of good family, strict honour, and engaging manners.---He was then pretty far advanced in life, and Lady Jane herself was in her forty-seventh year.---Unluckily for the new married couple, the Duke had conceived some unaccountable umbrage against Mr. Stewart, which, as Lady Jane was entirely in the power of her brother, made it

necessary to conceal their marriage from him for some time. Judging, however, that it could not long remain a secret, whilst they resided in Scotland, they resolved to set out for France.---Accordingly, Lady Jane, attended by Mrs. Helen Hewit, as her companion, a gentlewoman of character who had been much about the marchioness, her mother; and two maid-servants, Isabel Walker, now Mrs. Glass, and Effy Caw, set out from Drumseugh, near Edinburgh, the 16th or 17th of August, 1746, six days after the marriage being joined; at Huntingdon, in England, by her husband, Colonel Stewart, who, to save appearances, was unwilling to accompany her from Scotland.---They spent the following winter at Utrecht and the Hague; and, in the end of April, 1747, set out for Aix-la-Chapelle, where they continued to reside till the first of June, 1748. In all these different places Sir John and Lady Jane cohabited as husband and wife; yet in so private a manner, that the intimacy of their connection was not generally known: for the same causes which rendered their departure from Scotland necessary, suggested the necessity of privacy, even in foreign countries.---An event, however, soon happened, which, whilst it removed the necessity of further precautions, obliged them at once to pull off the mask.---Lady Jane, in the end of the year 1747, proved with child. An event, big with such important consequences, occasioned an immediate alteration in their plan. Their marriage

marriage was now no longer to be concealed; and Lady Jane, hoping that her brother could not be offended at an event, of which he should no sooner hear, than he should also be informed of its happy consequences, wrote to Lord Crawford, then with the army, begging him to acquaint the Duke of Douglas of her situation ---- Meanwhile her friends at Aix-la-Chappelle, observed with pleasure the progress of her pregnancy. Of the number of these were Lady Wigton, Miss Primrose, Mrs. Greig, Mr. and Mrs. Hepburn of Keith, and Mrs. Hewit, who all particularly depose that Lady Jane had the appearance of a woman big with child.

Mr. Hepburn of Keith deposes, "that Lady Jane was at the Hague in the year 1746, where the deponent saw her and Sir John Stewart; that he afterwards saw them at Aix in the spring 1748; that Lady Jane appeared to the deponent to be thinner in the face, and not so well as when he had seen her at the Hague; that he took notice of this to Mrs. Hepburn his spouse, who said, "don't you observe that she is with child?" And that he accordingly looked at her more narrowly next day, and she did appear to be with child; and that she endeavoured to conceal her bulk in the belly, by a loose dress which she wore." Mrs. Hepburn of Keith deposes to her having seen Lady Jane and Sir John at the Hague, at Aix-la-Chapelle, and at Liege; "that when she saw Lady Jane at Aix, she observed a very great difference from
the

the looks that she had at the Hague; that her face was very thin, her belly or waist very thick, her cheeks thin, and her eyes large: that from all which the deponent had not the least doubt of her being with child--- Deposes further, that afterwards, when the deponent saw Lady Jane at Liege, she appeared just like a clue, with a capuchin about her, which she commonly wore, and seemed to have no affectation to shew, or discover, her being with child." The latter part of Mrs. Hepburn's deposition is remarkably strong, and deserves particular attention; ---deposes, "that one morning, she saw Lady Jane sitting upon her bed-side without her gown, and her waistcoat laid about her: that her breasts were quite exposed: and that, from what the deponent observed of them, it was impossible that any person who saw her in that situation, could doubt of her being with child; that this was the more observable to the deponent, that, when she saw her at the Hague she was a thin and slender woman, in so far as that she scarce appeared to have any breasts at all; deposes that she came in by surprise upon Lady Jane in the morning above-mentioned."

Lady Wigton, Miss Primrose, and Mrs. Greig depose to the same purpose.

One part of Mrs. Hepburn's deposition, respecting Effy Caw, one of Lady Jane's maid-servants, must not be omitted. Depones, "That Effy Caw was dismissed Lady Jane's service, after Lady Jane came to England, as

the

deponent thinks, and came to Scotland; and applied to the deponent for service; that she recommended her accordingly to wait on her the deponent's niece, Miss Bruce; and she afterwards served the deponent's daughter-in-law Mrs. Hepburn, went to England with her and died there: that when she was in these services, the deponent heard her frequently declare, that, if she was to step next moment into eternity, she would declare, that Lady Jane, her mistress, was with child: and as there was some talk, at that time, that the children were not Lady Jane's, she wished that her oath might be taken concerning that matter; and the deponent had the more regard to this, that she seemed to be a little piqued at Lady Jane's turning her from her service. Deposes further, That Effy Caw told her, as the reason why she was so positive of Lady Jane's being with child, that she generally dressed and undressed Lady Jane, when she was in her service."

Mrs. Hewit, at the service, deposes, " that while they staid at Aix-la-Chapelle, there were many Scots people there, particularly Lady Wigton and Miss Primrose who lived with her, and one Mrs. Greig, Lady Wigton's woman; that there was also there a lady of distinction, Madam Obean, whose husband had a house at Brussels; that Madam Obean pressed Lady Jane to go to Brussels, to be delivered in her house, which she would have done, had not that lady's husband been called to Vienna and she obliged to follow him---
that

that during this time, the deponent had occasion frequently to converse with the ladies above mentioned, who all took notice of Lady Jane's pregnancy; that Lady Jane was about eight months gone with child before she left Aix-la-Chapelle; and at that time, both her belly, and breasts, particularly her breasts, were so remarkably big, that most people thought she was with twins---that Lady Jane naturally was remarkably slender, and had scarcely any breasts at all." Mrs. Tewis, at whose house Lady Jane lodged while at Aix, concurs with Mrs. Hewit and the above-mentioned witnesses in every particular. In short, never was pregnancy proved by such a cloud of witnesses as is that of Lady Jane at Aix-la-Chapelle, Sedan, Rheims, or wherever she happens to be before her actual delivery.

Before we leave Aix-la-Chapelle, I shall give a short extract from one deposition more produced in the service; that of Isabel Walker, one of the maids, which is very strong, and rests unconfuted. This witness, as well as the others, was likewise examined in the present action; when her deposition agreed remarkably with that delivered at the service.

She deposes, "That when Lady Jane was in the seventh month of her pregnancy, she was become so unweildy as not to be able to go to bed without assistance; which she, the deponent, gave her, and by means of a stool she slept in and out of bed. Depones, that Lady Jane was uncommonly big; and that,
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from the appearance of her belly and breasts, which the deponent had so frequent occasion to see, it was impossible for her to have been deceived or mistaken of the condition of Lady Jane, who was naturally flat-breasted, and very thin: but, when with child, continues the witness, her breasts rose to a great size."

What then do these strong depositions prove? Without all dispute, the existence of the pregnancy at Aix-la-Chapelle. These witnesses do not depose to equivocal appearances; they do not merely tell us that she appeared to them to be with child, without assigning the reason for their belief. They give as causes of knowledge, her big breasts, belly, &c. and these causes, it is to be remarked, are assigned by persons who had the nearest inspection of her person, as Mrs. Hewit and Isabel Walker, who dressed her; and Mrs. Hepburn, who coming in one morning, by surprise, saw her naked breasts so big, that, as she strongly expresses it, it was impossible that any person who saw her in that situation could doubt of her being with child.

And now that Lady Jane's pregnancy is proved by such a number of unexceptionable witnesses, it is incumbent upon the Pursuers in the present action, either to falsify these witnesses, and so destroy their evidence; or, which is equally difficult, evince that the defender is not the fruit of that pregnancy, by proving an abortion. On the contrary, I shall endeavour to establish Mr. Douglas's filiation, by tracing Lady Jane's pregnancy in its progress

gress, from the first of June, when she left Aix, to the fourth of July, when she arrived at Paris, at the house of Mr. Godefroi, six days before her delivery.

The approaching congress rendering Aix an inconvenient place of residence, determined Mr. Stewart and his company to remove to France.---It appears, indeed, from proof, that, prior to this resolution, Mr. Tewis, a relation of Mrs. Tewis, at whose house Mr. Stewart lodged, had written at the desire of Lady Jane, to a nobleman then at Vienna, for the use of his country house, in the neighbourhood of Aix-la-Chapelle, where Lady Jane intended to ly-in. But, before his answer arrived, they had changed their mind, and removed to Rheims. What was the cause of this sudden alteration; whether Lady Jane ever seriously meant to be delivered at that nobleman's castle, or had then planned the journey to Paris; and, what were the motives of that journey; are questions, tho' material to the cause, absolutely incapable, at this distance of time, of a satisfactory or probable answer.

It is, however, unfair in the Pursuers to take advantage of every dubious circumstance of conduct, by ascribing to it motives, which have manifestly no foundation in proof.

But without inquiring into motives, which, we can, at best, but conjecture, let us proceed to the other facts which establish the pregnancy.

At Liege, where Lady Jane stay'd some days in her way to Rheims, the pregnancy is indisputably

putably proved by Mrs. Hepburn, whose deposition we have inserted already; by Mr. Byres of Tonley, who makes use of very strong expressions in asserting his belief that Lady Jane was with child; and by Chevalier Douglas, who, as appears from proof, advised Mr. Stuart to carry Lady Jane to Paris, where the best assistance could be procured; and it is most probable, this advice, joined to the information Lady Jane received at Rheims of the want of proper assistance for women in her condition, in that city, first suggested the journey to Paris which has furnished such matter of misrepresentation and triumph to the Pursuers. At Rheims, where they arrived about the middle of June, Lady Jane's pregnancy was observed by the Abbe Hibert who walked with her every evening; by Lieutenants M'Kenzie and M'Clean, two British officers, who, having been taken prisoners by the French, resided in that city; and by several others. It is remarkable that Lieutenant M'Kenzie concurs with Mrs. Hewit in affirming, that Lady Jane was so big before she set out for Paris, that he and M'Clean were obliged to lift her into the coach. Lieutenant, now Major M'Clean, indeed, remembers not a single circumstance about Lady Jane, farther than that he saw her and Colonel Stewart at Rheims in 1748----But M'Clean's want of memory can never affect the credit of concurring witnesses. The pregnancy, then, is brought down, by Mrs. Hewit and Mr. M'Kenzie's strong depositions to the time when she entered the stage-coach at Rheims-----

And let the passengers in that stage-coach depose as much as they please to their ignorance of her being with child, it is evident that she had the appearances of pregnancy, either real or affected, when she entered the stage-coach; and, supposing an imposture, these appearances could not have been so suddenly removed: so that the depositions of these passengers amount to no more than this, that they paid so very little attention to a person whom they had never seen before in their life, that it is impossible for them to say whether she was with child or not. Besides, as Lady Jane wore a long cloak, and was often dressed in a hoop, it is not at all surprising that people who knew nothing about her, or her connection with Mr. Stewart, did not pay that minute attention to her person, which might be expected from those only with whom she was intimately acquainted; and who, by comparing, in their own minds, the difference of her shapes, at different times, could form a rational judgment of her situation. For it is to be observed, that all the witnesses concur in asserting, that Lady Jane's bulk of belly, breasts, &c. was not very remarkable till the seventh month of her pregnancy. We shall, perhaps, have occasion to apply this observation in the sequel.

It was upon the second of July, 1748, that Colonel Stewart, Lady Jane, and Mrs. Hewit, set out for Paris in the Rheims stage-coach, which sets out at two in the morning; the two maid-servants being left behind, at Rheims, for reasons which
are

are not now obvious; though the Pursuers find no difficulty in accounting for this last circumstance. " Lady Jane (say they) within a few days of her pretended delivery, sets out for Paris in the common stage-coach, a most uneasy carriage, through a mountainous stony country---She is so well too as to be able to sit up till two in the morning, when the stage-coach sets out; and, by the depositions of the other passengers, is chearful and healthy during the disagreeable hazardous journey----They set out in the most private manner, leaving their maid-servants behind them, whom, in a matter of such consequence as that they had embarked in, it would have been dangerous to trust." Whether these surmises are well grounded I do not pretend to determine. It is not my intention in this short narrative to refute every assertion of the Pursuers, which is unsupported by proof---I but relate the facts---let them speak for themselves.

As Rheims is three days journey from Paris in the stage-coach, Mr. Stewart and his company arrived there on the 4th of July in the evening; and, in consequence of a recommendation from Mr. Maillefer, the syndic at Rheims, put up at the house of Mr. Godefroi, the Hotel de Chalons, Rue St. Martin. Mr. Godefroi had got notice by a letter from Mr. Maillefer, that a Scotch gentleman and his lady were to arrive at Paris on the 4th from Rheims, who would use his house till they were provided with lodgings. Here they continued till the 7th, when Lady Jane, probably

bably perceiving her delivery approaching, and sensible that a public inn was the most improper place in the world for a woman in her condition, removed to the house of one Madame la Brun in a quarter of the Fauxbourg, and was there delivered on the 10th of July, by Pierre la Marre, an accoucheur, or man-midwife, with whom Madame la Brun was acquainted, of two sons; the youngest weak and sickly---the other a strong healthy child.

Mrs. Hewit expressly deposes, " that, upon the 10th of July, Lady Jane was delivered at Paris, of two sons; and that she, the deponent, was present at their birth, and received them both into her lap, when they came into the world."

I shall suffer this deposition to pass without any comment.

In this house they seem to have resided for about ten days after the delivery, when Lady Jane was obliged to remove, tho' with hazard, to another house, on account of bugs. The house to which they now removed was that of Mr. and Madame Michelle, called the Hotel d'Anjou, Rue Serpente, Fauxbourg St. Germain, where Lady Jane lay for some time, having not yet recovered her strength. It must be observed, that the youngest of the children, being very weak and sickly, was sent by the man-midwife, immediately after the delivery, to the country, to be nursed. The defender being strong and healthy, continued with his mother at La Brun's: and
upon

upon her removal to Michelle's, followed her thither with his nurse. He does not appear, however, to have been very fortunate, in the article of nurses, whom he changed more than once--and the discrepancies, with respect to the number and other circumstances of these nurses, in the depositions of Mrs. Hewit and Sir John are wonderfully exaggerated by the Pursuers. To say the truth, I should have been much rather inclined to suspect a connivance between the witnesses, had they concurred in every circumstance, however trifling, at the distance of fifteen or sixteen years. They must have had but a confused idea of the whole transaction, unless the material part of it, the actual delivery; and when there was confessedly such a number of nurses, a confusion was to be apprehended and expected---it was unavoidable.

Before we leave Michelle's, it is of consequence to observe that the witnesses, even those produced by the Pursuers, belonging to that family, depose, that during the time she was in their house, Lady Jane had all the appearances of a woman lately recovered from childbirth, or some dangerous disorder---It is also clearly in proof, that she recovered every day after she went to Michelle's and at Dammartin, a village about seven leagues from Paris, in the road to Rheims, whither she was advised to go by the man-midwife for the benefit of air; and whence, after staying a fortnight, they set out for Rheims, the defender accompanying them---As for the youngest boy,
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he was left, on account of his weak state of health, at Paris, under the care of the man-midwife, who wrote an account to Sir John of his health once a fortnight.

And now having brought them back to Rheims, where they arrived August the 16th, 1748, N. S. let us enquire what success Lady Jane's letter, informing him of her marriage and pregnancy, by the mediation of Lord Crawford, had with the Duke her brother; and what were the sentiments of her friends in Britain upon an event of such consequence to the illustrious house of Douglas. Before I enter upon this part of the narrative, I would premise, that, previous to their leaving Paris, Sir John had acquainted several of his and Lady Jane's friends, both in France and Britain, of her delivery. These letters are mostly of date the 22d of July, twelve days after the delivery. Lady Jane, too, upon her recovery, wrote a second letter to the Duke her brother, acquainting him of her good fortune, and begging his kind protection to herself and infant family.

In all probability these letters of Lady Jane, with the representations of Lord Crawford in her favour, would have soon determined the Duke to forgive, in a beloved sister, a step which had been followed with such happy consequences, if, on this occasion, the generous effusions of his own breast had remained free and uncontrolled. But, alas! the Duke of Douglas saw no longer with his own eyes;

he had already been most unhappily imposed on.

This nobleman, having in his youth had some difference with his sovereign, quitted the court in disgust, and retiring to Douglas Castle, had lived there for upwards of thirty years, a prey to melancholy, which the gloom of solitude seldom fails to inspire. The hopes of the family centered in himself and Lady Jane his sister---the former had expressed an insuperable aversion to marriage---The latter, from sentiments of delicacy had refused many advantageous offers. As the family of Hamilton stood next in order of succession, the birth of Lady Jane's children particularly affected them, as it frustrated at once the vast hopes they had entertained of adding to their own domains, already opulent, the princely fortune of the ancient and illustrious house of Douglas. What then was to be done, to ward off a blow which struck at the root of all their fond expectations, and blasted them in a moment! They had but one card to play; and it was nice and delicate. A report was propagated and industriously spread thro' the country that Lady Jane, thro' aversion to the family of Hamilton, had been guilty of the crime of *partus suppositio*, or counterfeiting a birth---that her children had been picked up in the streets of Paris---that for this purpose she had gone abroad with Mr. Stewart, who, in conjunction with her, was introducing a spurious supposititious race into the family of Douglas. The partizans
c of

of the family of Hamilton did not fail to sound in the ears of the unsuspecting Duke an alarm so capable of rousing the lion in him. They had, indeed, prepared him for this their last game, by throwing the most injurious suspicions on the character of Lady Jane, in her absence, by representing her as artful, deep and dissembling; by setting in the most striking point of view, her late imprudence, in marrying without his advice or consent; and by aggravating every little fault in the conduct of Mr. Stewart, so as to render him more obnoxious to his hatred, and to prevent any hope of the Duke being reconciled to his marriage with Lady Jane. Thus prepared, the fatal rumour could scarce fail of having the desired effect. He really believed that his sister had counterfeited a birth. As who, thought he, would be bold enough to tell the Duke of Douglas that his sister was infamous, had not her infamy been proved beyond the possibility of a doubt. His noble spirit was roused with indignation at the low and illiberal scheme, unworthy of the meanest of the name of Douglas; and he resolved never again to see his sister, and to shew her every mark of his highest displeasure.

This was the very point which the minions of the rival family had been labouring to obtain. For having once brought him to believe that Lady Jane was infamous, and her children supposititious, the consequence was unavoidable, a settlement in favour of the family of Hamilton, the next in order of succes-

succession. A settlement was accordingly made to the utter exclusion of Lady Jane's children.

With whatever success these designing men had practised upon the noble spirit of the unsuspecting Douglas, the injurious story gained little credit with others. People were too well acquainted with the character Lady Jane had always maintained, to believe, upon the authority of a vague and uncertain rumour, that she should, all at once, plunge into vice, and, contrary to the uniform tenor of her conduct, be guilty of a crime which, if detected, must bring disgrace and infamy upon herself, as well as upon the illustrious house, whose honour she meant to tarnish. Colonel Stewart too was well known to be a gentleman of the nicest sense of honour: and utterly devoid of that artifice and deep dissimulation so necessary in conducting a fraud of this nature. And the adage, "*Nemo repente fit turpissimus*," had no inconsiderable weight in destroying the credit of an aspersion so foul and injurious.

We shall now return to Mr. Stewart and his company, whom we last just arrived at Rheims from Paris in August, 1748.

About three weeks after the return of his father and mother to Rheims, the defendant, now about two months old, was publickly baptized, in that city---Lord Blantyre, and Baron Macilicoat, Lady Wigton's husband, being godfathers: Lady Wigton, and Mrs. Andrews, proxy for the marchioness of Lothian, godmothers. The extract from the

register of baptisms in process is dated September the 22d, 1748.

“ About a month after the christening, as Mrs. Hewit deposes, Lady Jane proved again with child ; but, when she was near three months gone, continues the same witness, her foot slipt in the street, as she was walking home from a visit to Lady Wigton ; and, being slightly hurt, she miscarried the next day at the house of Mrs. Mayette, a widow, with whom they lodged.” This miscarriage is proved by many witnesses, who all agree with Mrs. Hewit in the capital circumstances.

Their affairs rendering their return to Britain necessary, they set out in November, 1749, to Paris, to bring from thence their youngest son Sholto, who was now about sixteen months old, and, by the attention of the surgeon, considerably better in point of health. At Paris they staid a very few days, and then set out for Rheims, and soon after for London, where they arrived a week before Christmas.

As the first effect of the too easy credulity of her brother, Lady Jane had been deprived of her pension of 300 pounds a year, about six months after the birth of her children ; and as she had been left by her father entirely at the Duke's mercy, herself and family would have been totally destitute, but for the generous compassion of Lord Morton, who, being acquainted with her straits, and the unhappy misunderstanding with her brother, instantly remitted her three hundred and fifty pounds.

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The distress to which the unhappy Lady Jane was reduced, during a residence of two years and ten months at London and Chelsea, exceeds description. She knew her enemies had been busy with her reputation---she was aware of the arts that had been used to destroy her in the opinion of her brother----the duke had been grossly abused---But how to undeceive him?---He was inexorable---he was inaccessible. To add to the keenness of her affliction, Mr. Stewart had contracted debts, and was confined within the rules of the King's Bench; whilst herself and helpless children were pining in actual want. To a woman of Lady Jane's sensibility and exquisite feelings, what a terrible situation! She bore it, however, with that composure, that dignity and elevation of mind, which are ever found inseparable from true greatness. It was during this melancholy period that she wrote to Mr. Pelham the following celebrated letter, which has appeared in most of the late daily and monthly publications; and, with an unusual elegance of sentiment, discovers a soul superior to the severest strokes of fortune.

“ S I R,

“ I F I meant to importune you, I should
 “ ill deserve the generous compassion
 “ which I was informed some months ago
 “ you expressed upon being acquainted with
 “ my distress. I take this as the least trou-
 “ ble some

“ bleesome way of thanking you, and desir-
 “ ing you to lay my application before the
 “ king in such a light as your own hu-
 “ manity will suggest. I cannot tell my
 “ story without seeming to complain of one
 “ of whom I never will complain. I am
 “ persuaded my brother wishes me well ;
 “ but, from a mistaken resentment, upon
 “ a creditor of mine demanding from him
 “ a trifling sum, he has stopt the annuity
 “ which he had always paid me. My fa-
 “ ther having left me, his younger child,
 “ in a manner, unprovided for, till the Duke
 “ of Douglas is set right, which I am con-
 “ fident he will be, I am destitute. Pre-
 “ sumptive heiress of a great estate and fa-
 “ mily, with two children, I want bread.
 “ Your own nobleness of mind will make
 “ you feel how much it costs me to beg,
 “ though from the king. My birth, and the
 “ attachment of my family, I flatter my-
 “ self, his majesty is not unacquainted with ;
 “ should he think me an object of his royal
 “ bounty, my heart wo’nt suffer me to set
 “ any bounds to my gratitude ; and, give me
 “ leave to say, my spirit wo’nt suffer me to
 “ be burdensome to his majesty longer than
 “ my cruel necessity compels me.

“ I little thought of ever being reduced to
 “ petition in this way ; your goodness will,
 “ therefore, excuse me, if I have mistaken
 “ the manner, or said any thing improper.
 “ Though personally unknown to you, I
 “ rely upon your intercession ; the consci-
 “ ousness

“ousness of your own mind, in having done
“so good and charitable a deed, will be a
“better return than the perpetual thanks
“of,

“S I R,

“Your most obliged,

“Most faithful, and

St. James's Place,
May 15, 1750.

“Most obedient Servant,

“JANE DOUGLAS-STEWART.”

This Letter had the desired effect---And Lady Jane, hoping to undeceive her brother, made a journey into Scotland, in August 1752, accompanied by her children, Mrs. Hewit and Isabel Walker; Mr. Stewart still remaining in London. In Scotland the resemblance of the defendant to the Duke his uncle was universally allowed; and Sholto, the youngest, it was agreed, was the very picture of his mother. Lady Jane, trusting in her innocence, and honestly thinking that the very sight of her children must convince the Duke that his suspicions were false, made an effort to be admitted into his presence. She accordingly went to Douglas Castle with her two sons, but was refused admittance---Isabel Walker, who accompanied her deposes, “That, upon her asking admittance, Lady Jane was directed to go to a terrace-walk, to wait the return of the message which she had sent to the Duke, informing

informing him that she and her two sons were come to wait on him---That the message was brought her there, and was, that the Duke would by no means see her---Adds, that Lady Jane, upon receiving this message, was greatly distressed."---It is not to be supposed that the Duke, if left to himself, could have refused to his sister, the opportunity which she now requested, to vindicate her injured honour. But the inhuman Stockbriggs, a name odious to the defendant, by an artful repetition of the hated tale, and an affected conviction of the imposture, roused his resentment anew, and stifled every tender emotion in the breast of the relenting and much deceived Duke.

Few situations can be pictured, or conceived more affecting and distressful than that of Lady Jane at this juncture---Refused admittance to her brother's presence, spurn'd from his very gate, whither shall she fly? But, alas! ill-fated woman! the measure of her woes was not yet full---The purpose for which she had undertaken a journey into Scotland, being thus defeated, Lady Jane, accompanied by Mrs. Hewit, returned to London in the end of April, 1753, leaving the children at Edinburgh, in a house near the meadow, under the care of Isabel Walker, Mr. Loch and Mr. Colvill.

Two days after they left Scotland, the younger boy, Sholto, caught a fever, of which he died. This was a terrible stroke to poor Lady Jane, who had little need of such an addition

dition to her griefs. Certain it is the death of her son affected Lady Jane more sensibly than all her other afflictions: nay, the lively grief which it is clearly proved she expressed upon that melancholy occasion, was so striking, that the Pursuers saw the necessity of diminishing its effect, by pretending it to be affected. But will the Pursuers say, that she affected to die likewise?---And that she died of grief and a broken heart, particularly for the loss of her son, appears from proof----- And Mrs. Hewit, to that effect, deposes, "That Lady Jane was attended in her sickness at London, after Sholto's death, by Mr. James Pringle, surgeon to the guards; and afterwards by Mr. Fordyce--That these gentlemen told the deponent, that Lady Jane's disease was a broken heart."

In August, 1753, Lady Jane returned to Scotland; and, resigning herself up entirely to a fixed and settled melancholy, occasioned by a train of such very uncommon misfortunes, wished for death to put an end to her woes. Feeling her end approach, she ordered her son Archibald, the defendant, to be brought to her; and, after advising him to bear with a manly courage, the loss he was just about to sustain, "My child," said she, "God bless you; God make you a good and an honest man; for riches I despise. Take a sword in your hand, and you may one day be as great a hero as some of your predecessors." With these words the pious Lady Jane breathed her last.

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Thus

Thus died, in the fifty-fifth year of her age, Lady Jane Douglas, whose misfortunes could only be exceeded by the heroism of mind with which she bore them. If indeed, from view of interest, she was attempted to deviate, all at once, from the "onward path of sincerity," and descend to arts little compatible with her usual dignity of sentiment, never was woman more miserably disappointed. She, in that case, no doubt, hoped to reconcile the Duke to her marriage, and to re-establish herself in his good opinion : he was inexorable, he would not see her. It was natural for her to think, that, upon an increase of her family, her allowance would be increased---the pension of three hundred pound a year, which her brother had duly paid her, even during his displeasure on account of her marriage, was immediately withdrawn ; and she and her children reduced to actual want.

Lady Jane, through a noble pride, had declined to take any step towards proving the birth of the defendant, after she removed to Britain. She knew it was incumbent upon those who called it in question, to prove that the child was an impostor ; " which, she knew was impossible, for Mr. Stewart owned the child as his, and knew it, and God knew that the child was hers, as well as she herself did."---Mrs. Greig's deposition. She made no secret, however, to her friends, of the place of the birth, and of the man-midwife who assisted at it. In a long conversation which Mr. Loch, writer in Edinburgh, deposes to

have had with Lady Jane upon the subject of her children, she gave him a particular and full history of the delivery, which he took down from her own dictation in a scroll which is in process. The scroll bears, " that Lady Jane Douglas was delivered in the house of Madame la Brun, Sanbourg, St. Germain, Paris the 10th of July, 1748; that Mr. Pierre la Marre, a man-midwife, assisted her at the birth; Madame la Brun and her daughter, a widow lady that lodged in the same house, and Mrs. Hewit, being present.

In August, 1750, Lady Jane wrote to Mrs. Tewis, in whose house she had lodged at Aix in 1747, and 1748, informing her of the illiberal suspicions which had been industriously raised and propagated by her enemies, in order to destroy her with the Duke her brother, and ruin her poor helpless children. She concluded with begging her to make a judicial declaration of all that she knew of her pregnancy and situation while at Aix-la-Chapelle. Mrs. Tewis immediately sent her three notorial declarations emitted at Aix, by herself and two others, which were produced in this action, and indeed are so strong and convincing, that the proof of pregnancy might rest upon them alone.

On the death of Lady Jane, Lady Schaw, widow of Sir John Schaw, of Greenock, Bart. and grand-mother to the Hon. Mrs. Napier, took the defendant under her protection. This Lady, whose memory Mr.

Douglas will ever gratefully revere, not bearing to see the son of her late friend left destitute, and well convinced of the falshood of the malicious reports which had been raised to his prejudice, generously took him into her house, and gave him an education suitable to his birth and rank. Mr. Stewart succeeding to the estate of Grandtully, by the death of his brother, Sir George Stewart, came to Scotland, where the first thing he did, was, to execute a bond for fifty thousand marks, in favour of Mr. Douglas his son, which he wrote all over with his own hand, from the scroll made of it by Mr. Loch, his agent; who, with his son, and Sir John's servant, were witnesses. Mr. Loch affirms, that Sir John at first proposed to grant bond for a larger sum, to which he objecting, as being too great a burden upon the estate, Sir John answered, that he was resolved to provide the defendant, not as a younger son of the family of Grandtully, but as the issue of his marriage with Lady Jane Douglas. Mean time the suspicions of the defendant's birth increased daily--and those very circumstances, which, to the unprejudiced and disinterested, impress conviction of Lady Jane's innocence, were used, by artful mis-constructions, as strong arguments of the reality of the imposture.

Among the numerous mis-representations, which seem to have been made about this time to the Duke, of his sister, may be ranked

ranked the celebrated letter*, so remarkable for its rusticity and asperity of expression, written by a gentleman, now a noble Lord, who is so well characterized in Rodomantado, in a late agreeable tale.

By such means as these, the Duke, now satisfied of the imposture, was prevailed on, without any violence to his inclination, to confirm the deed of settlement in favour of the family of Hamilton. The matter was, now, become highly serious; and Lady Schaw, zealous for the interest of the defendant, resolved to make enquiry into the truth of the birth, and undeceive the Duke at once.

Accordingly, in May 1756, Mrs. Napier, Lady Schaw's grand-daughter, having a conversation with Sir John on the subject of the defendant's birth, laid before him the necessity of taking some steps in order to remove the doubts which had been entertained of Lady Jane's delivery. She therefore begged him to give her, in writing, an account of the particulars relating to the birth---as the name of the house, street, midwife, &c.---assuring him that immediate enquiry should be made into every circumstance. Sir John, whose memory, naturally imperfect, was now much impaired by age.

* This letter is printed in the defender's proof and memorial; and as it is an excellent counterpart to Lady Jane's elegant letter, inserted above, the author of this narrative is very sorry he could not procure a copy of it for the reader's perusal.

and distress, told Mrs. Napier, that, about the time of Lady Jane's lying-in, they had changed houses so often, that he could not, with certainty, fix at present upon the house where the delivery happened; but that he would reflect upon it at home, and give her a note of all these circumstances. But the Lady insisting on a memorandum of such names as he could recollect, he wrote, in her presence, a note, of date May 13, 1756, in which, among other names, Michelle's is assigned as the place of delivery. It will be remembered that they did not come to Michelle's, till after the delivery. But it will also be remembered, that, this list of names was forced from Sir John, when, it is plain, he had no distinct remembrance of the place where the delivery happened. This note was sent by Mrs. Napier to Lady Fanny Stewart, the wife of Sir James Stewart, of Goodtrees, Bart. who was then at Spa, with a request, that she would get some enquiry made into those particulars for establishing the reality of Mr. Douglas's birth. Sir James immediately wrote to Mr. John Gordon, Principal of the Scots college at Paris, requesting him to make the enquiry; and, for that purpose, sent him a copy of Sir John's note, wherein, as was observed, the house of Madame Michelle was specified as the place of delivery. Enquiry was accordingly made at Michelle's, by Principal Gordon---but the result was not

not satisfactory. He learned that Sir John and Lady Jane had actually lodged there--- that she had, when there, the appearance of a woman recently or lately delivered; but that no delivery had happened in that house. This account was transmitted to Sir James Stewart, and by him to Mrs. Napier, and Lady Schaw.

Mean while, Sir John, reflecting upon the particulars of the birth, discovered a material error in the note of May 13, delivered to Mrs. Napier. He therefore made out a new note of particulars, and gave it to Mrs. Napier, in all probability, long before Lady Fanny's letter arrived, giving an account of the fruitless enquiries at Michelle's. In this second note, Madame la Brune's house, Fauxbourg, St. Germain, is specified as the place of delivery, the same which had been specified in 1752 by Lady Jane in Mr. Loch's scroll, which scroll Sir John never saw. Mrs. Napier, upon this second note, meant to have founded another letter to Lady Fanny Stewart; nay, I think, she deposes, that she actually wrote to France before she set out for England; but that the letter had not come to hand.

Be that as it will, the enquiry was not prosecuted further at this time; and a train of events, which followed, proving favourable for the defendant, seemed to supersede the necessity of such an enquiry.

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The family at Douglas-Castle had undergone a remarkable revolution. Stockbriggs, the inveterate enemy of Lady Jane and her children, was dead; the Duke had overcome his aversion to society, and was married; and the influence of the adherents of the family of Hamilton, was greatly diminished. At the persuasion of the Dutchess, the Duke left his retirement, and resided, during the winter, at Edinburgh. He enlarged the circle of his acquaintance; divested himself of the contracted ideas which he had acquired during his recess; and perceived how much he had been abused by the minions who possessed his ear. At this favourable juncture, the Dutchess commenced a keen advocate for the defendant--She explained to her husband the motives of the partizans of the family of Hamilton, to raise reports so injurious to the unfortunate Lady Jane; and convinced him of the falsity of many of the stories that had been told him---She concluded with urging him, in the most affecting manner, to acknowledge his nephew, and cancel the settlement which had been extorted from him.

But the Duke's prejudices were too deeply rooted to be removed at once---The Dutchess continued her importunities---the Duke was displeased, and a misunderstanding ensued. On recollection, however, he found he had been in the fault---he was reconciled to the Dutchess, and promised to make enquiries concerning the birth. Mrs. Hewit, who accompanied Lady Jane to Paris, and was

was present at her delivery, was still alive, in hired apartments at Edinburgh---The Duke saw and conversed with her often; and from her strong, uniform, and consistent account, was, at length, convinced of his sister's innocence and honour, and the legitimacy of the defendant. The generous Douglas, after dropping a tear to the memory of his unfortunate, much-injured sister, immediately cancelled the writings by which he had settled his estate on the family of Hamilton, and devised it to his nephew Archibald, the defendant.

The Duke did not long survive this settlement; and Mr. Douglas was served heir to his deceased uncle. In serving heir, or proving propinquity, it is common to bring a proof of what is called *Habite and Repute*, only; that is, a proof that the claimant is generally believed to be the son of such and such parents. In the present case, to remove the stigma which the late injurious suspicions had thrown upon the character of his mother, the claimant brought not only an ample proof of *Habite and Repute*, but of the *pregnancy* at different places, and the actual *delivery* at Paris, by the testimony of a witness who was present at the birth. Upon such proof was the verdict of the jury founded, "serving the defendant nearest and lawful heir of tailzie, and provision in general, to the deceased Archibald, Duke of Douglas, his uncle."

So much for the facts stated by the defender.

It might have been expected, that the defender's title was now ascertained, beyond

the possibility of a doubt. The tutors, however, of the Duke of Hamilton, saw things in quite another light; and zealous for the interests of their pupil, were resolved to get at the bottom of the late extraordinary reports, so dishonourable to the defendant. For this purpose they deputed Mr. Andrew Stuart, one of their number, a man of the strictest honour, to go privately to Paris, and, from the circumstances he had picked up at the service, to make enquiries concerning the truth of Lady Jane's delivery. Mean-time, claims were entered to the Duke of Douglas's succession, not only by Mr. Douglas, his nephew, who was served heir, but also by Duke Hamilton, and the Earl of Selkirk.-- In this competition, the Court of Session pronounced an interlocutor, or decree, dated December 9, 1762, finding, " that Archibald Douglas, as heir of line, is called to succeed to the late Duke of Douglas in his whole estate; and that the brieves, at the instance of the Duke of Hamilton, and the Earl of Selkirk, for serving them heirs in special to the said Duke, could not proceed; and remitting to the macers to dismiss the same accordingly."

Whilst this process depended in Scotland, Mr. Andrew Stewart had made some discoveries in France, which, he doubted not, would turn out to the account of his pupil. As the names of La Brun and Pierre la Marre, had been specified in the service, one as the woman in whose house the delivery happened,

pened, and the other as man-midwife, Mr. Stewart had made all diligent enquiry for them; first, by himself, and afterwards, with the assistance of the Inspector of Police. These enquiries, however, were without success: and, as the Police of Paris is reckoned very exact, it was concluded that La Brun and La Marre were imaginary personages.

About this time, too, Mr. Stewart heard of the note which Sir John had given to Mrs. Napier, assigning Michelle's as the place of the delivery.---This was a considerable reinforcement.---He accordingly repaired to Michelle's, without delay, and calling for their *Livre des Logeurs*, for 1748, which all persons who entertain strangers, or who keep hotels, lodgings, or furnished apartments to let, are obliged to have, he found an entry of date July 8, 1748, in these words, "Col. Fluratl, a Scotsman, and his lady."---It immediately occurred to Mr. Stewart, that this entry respected Sir John and his company--he thought he could discover his hand-writing; and the disguise of the name was a very natural circumstance, upon the supposition of an imposture.---In any event, the discovery was too material to be neglected. He pointed out the account to Mr. and Madame Michelle, who agreed that it must relate to the persons he was in search of. Here then was a clear and direct proof of the imposture--an *alibi* upon the day of the pretended delivery: for it appeared, by Michelle's book, that they stayed there some weeks. One circumstance,

stance, however, with respect to this entry, appeared a little dubious---It was placed immediately after another of a subsequent date. It was not easy to obviate this circumstance, but by supposing it interlined; and Mr. Stewart fancied he could trace evident marks of interlineation. In the course of the enquiries respecting Lady Jane, and her situation, while at their house, the name of Godefroi was mentioned, as a person in whose house she had lodged before her arrival at the Hotel d'Anjou. This was the first time Mr. Stewart had heard of the name of Godefroi; for, though it was mentioned in a paper produced at the service, of which Mr. Stewart had the inspection, it had not struck him at the time, nor occurred to him afterwards. He was resolved, now, however, to leave nothing uncanvassed---he found out Godefroi's, the Hotel de Chaalons, and enquiring for his *Livre d'Inspecteur*, in which are inserted the names and country of all persons who put up at his hotel, though but for a night, he could find no entry about the beginning of July, 1748, that seemed to have any relation to Sir John and his company. Thinking he had been misinformed, Mr. Stewart was just going away, when Godefroi, to whom he had communicated what he wanted, told him that he had another book, which, for his own interest, he was obliged to keep more exactly than the other, being his *Livre des Depenses*, or book of expences--That when a person stays a very short time
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in his house, his name is often neglected to be inserted in the *Livre d'Inspecteur*; but that this is never the case with the other book, where every article of expence, however trifling, must be inserted, under its proper date, not only for his own information, but for the satisfaction of his guests: as their bill at leaving the house was always transcribed from the *Livre des Depenses*.

We omitted to mention, in the former part of this narrative, a journey which Sir John had made by himself, upon business, from Dammartin, to Paris, the 8th of August, 1748, a few days before their return to Rheims. At this time he had lodged at the house of Mr. Godefroi to the 12th, and then returned to Dammartin. Upon looking into the *Livre des Depenses* for 1748, Mr. Godefroi shewed Mr. Stewart the entry for Sir John by himself at the time now mentioned; and, immediately opposite to it, pointed out a blank account from the 4th to the 14th of July, which he remembered belonged to the same person and his company who had lodged with him in August, by the name of Colonel Stewart. Here was a terrible dilemma. The *alibi* seemed to be proved by the entry at Michelle's---and, if what Godefroi said, could be depended on, another *alibi* was as clearly proved at his Hotel. Mr Stewart, however, was not satisfied with Godefroi's account. Was it to be expected that a man, who, by the way, as he particularly deposes in this cause, seldom kept the household accounts, should, upon looking
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into a book which he had not seen for years, apply a blank account to a particular company, for no other reason than that he remembered it to be the company of a gentleman who had lodged afterwards in his house, by the name of Colonel Stewart, and whose account happened to be on the opposite page? The account, which begins thus, *Monseigneur sont entrés à souper*, was scored off after the 7th; for which circumstance Godefroi, or his wife, as readily accounted, by saying, that they intended to have removed that night, and had actually hired lodgings, which being buggy, they had declined entering, till they should be cleaned. Highly improbable and unsatisfactory, as Godefroi's history of the blank account was, Mr. Stewart resolved to canvass the matter further---The inn-keeper might be mistaken; but he had no motives to deceive. His cause of knowledge was uncertain and insufficient: but particular circumstances relating to Sir John and his company, might have assisted him in giving such a positive account, tho' at the distance of fourteen years. But how reconcile this with Michelle's entry? The reason assigned by Godefroi for scoring off the account after the 7th, furnished him with the means. Some of the people at Michelle's had affirmed that Lady Jane, immediately after entering their hotel, had gone with her company into the country, to fetch a child from nurse, whence she did not return for some days. This seem'd to tally with Godefroi's account:

And an hypothesis was framed, in which Lady Jane was supposed to have entered Michelle's the 8th as the entry bears; to have immediately returned to Godefroi's, staid there till the 14th, and then returned to Michelle's again. The absurdity of this hypothesis was too palpable to elude the observation of the vigilant Mr. Stewart---Accordingly it was adopted but for a very short time: and a discovery being made by the defender's agents, after the commencement of this process, that the entry at Michelle's was erroneous---that it was not written by Sir John, as had been thought, but by a girl, Mary, who had inserted the 8th for the 18th--and that the name Fluratl was not a disguised name assumed by Sir John, but a corruption of his real name of Stewart; the Pursuers were obliged to change their hold once more, and betake themselves to Godefroi's books alone. But this material alteration did not happen till some time after the commencement of the action of reduction: for, in the condescendence of facts offered to be proved by the Pursuers, which was given in to the Court of Session July 9, 1753, they neither fix the *alibi* at Godefroi's or Michelle's; but affirm "that they were at the house of Mr. Godefroi, and at the house of Mr. Michelle at times and during periods inconsistent with the possibility of Lady Jane's having been delivered at the house of Madame la Brun upon the 10th of July, 1748." His materials for making discoveries at Paris being exhausted, the
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indefatigable Mr. Stewart visited Rheims, Aix, Sedan, and every place where Lady Jane was affirmed to have been during her pregnancy, and previous to her arrival at Paris in July, 1748.

By searching the registers at the Coach-offices, he discovered the names and designations of those who had accompanied her thro' the different stages in her journey from Aix to Paris. Many of these he found out; and, by their accounts, was convinced that Lady Jane had not even the appearances of pregnancy deposed to by the witnesses in the service, in that journey; and, that, of course, these appearances were equivocal, being assumed to some, and laid aside to others.

In this opinion he was confirmed by the similar accounts of the Miss Hiberts at Rheims, at whose house Lady Jane lodged before she went to Paris to be delivered; and of Miss Sautrez, a mantua-maker in the same city, who had taken Lady Jane's measure for some gowns, which she had fitted up for her after the French fashion. This last seemed a very material witness, as she must have had occasion to examine Lady Jane's shapes with greater attention. The evidence was now growing upon him. But the master-discovery was still to come. Mr. Stewart mentioning to a gentleman at Rheims the intention of his journey to France, the strong suspicions that the defendant was an impostor, and the evidence he had already procured

procured, was told that the Curé of St. Laurent at Paris had given him the history of an *enlevement*, which seemed to agree remarkably in time and other circumstances with that suspected by Mr. Stewart. The latter listened to the story with great attention, and procuring a direction to the Curé, set out immediately for Paris. The account which he received from the Curé was in substance as follows: That an elderly gentleman, answering to the description of Sir John Stewart, had applied to him in November, 1749, for a list of the poor of his parish, pretending that a foreign lady of quality in his parish, of a very charitable disposition, was willing to be at the expence of maintaining and educating a child of any poor person, and had employed him to ask a list for that purpose; but the gentleman declining to tell the lady's name, the curate dismissed him without granting his suit---That, upon this denial, the gentleman, as the curate was afterwards informed, applied for a list to *Les Sœurs de la Charité de la Paroisse de St. Laurent*, and obtained it----That, having thus got a list of poor families, and having found a woman to attend him in his search, he went to several houses enquiring for children----That, when he came into any house where there were only female children, he took little or no notice of them---That he came, at last, to the house of a poor man and woman (Sanry) who had eight or nine children; that he fixed his eyes upon one of the youngest,

est, a boy of a fair complexion ; and, upon being informed that he was born in 1748, he immediately made choice of him---That the parent of the child consented, being deceived by the story which he had trumped up of the charitable lady---That, accordingly, the boy was carried to the house where the gentleman lodged ; where were two ladies----That, concerned for their child, the parents returned the next day, and found him well cloathed and tenderly used---That the gentleman told them his name was Duvernes, of the kingdom of Ireland, and that he generally resided at St. Germain en Laye in the neighbourhood of Paris---That, returning soon after to the same house, they were told that the strangers had set out that morning with the child in a coach, and that they said they were going to St. Germain en Laye ---That, after searching for them in vain in St. Germain en Laye, and several other places, the father of the child applied to the Curé, and related the whole circumstances to him ; that the Curé applied to the Lieutenant de Police for his assistance in discovering these strangers ; in consequence of which enquiry was made, but without success.

This story seemed to agree, in every circumstance, with Sir John Stewart's second journey to Paris, in November, 1749, to fetch, as was pretended, his son Sholto from nurse. It was, therefore, full time to commence the process ; and Mr. Stewart, having first seen some of the Sanry people, and heard
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the Curé's account confirmed, wrote to Scotland a full narrative of the discoveries he had made ; and advised that a reduction of the service on the head of falshood should be immediately begun.

The present action was accordingly commenced, in the form of a summons, in December, 1762 ; and a condescendence of facts offered to be proved by the Pursuers, founded on the above discoveries of Mr. Stewart, was presented to their Lordships on the ninth of July, 1763.

In reducing a service, it is necessary either to falsify the evidence, or to demonstrate that the proof was intrinsically insufficient to dictate the judgment which had been pronounced by the jury. In the present action of reduction, it was offered to be proved that Sir John and Lady Jane had actually been guilty of the crime of *suppositio partus*---By which means Mrs. Hewit's testimony was falsified---That to support this imposture, the accomplices had found it necessary, to forge four letters from Pierre la Marre, the pretended Man-Midwife, which, being produced at the service, had influenced the jury in returning their verdict---That the appearances of pregnancy deposed to by the witnesses in the service were altogether equivocal---And in fact, were assumed, or rejected, at pleasure. In a word, that clear and most satisfactory evidence could be brought, that the service was erroneous in every particular. Could this be proved,

the consequence was unavoidable. Mr. Douglas, no longer nephew to the Duke of Douglas, could not succeed to his estate, as not possessing the character in which it had been devised to him.

In the mean time, a petition was given in for the defendant, complaining of the proceedings carried on in France. Mr. Andrew Stewart, it seems, had, upon report of the Curé of St. Laurent and the Sanry people, by the advice of counsel, actually commenced prosecution, before the *Tournelle Criminelle*, or criminal court of the parliament of Paris, against Sir John Stewart and Mrs. Hewit, for alledged *supposition of children*. The intention of this criminal prosecution was, to ascertain the fact of the enlevement of Sanry's child, beyond the possibility of a doubt; and to make further discoveries corroborative of the imposture. In the Tournelle process, the Sanry witnesses were examined; Michelle's and Godefroi's books were produced-----and the success of the Inspector of Police in finding out Madame la Brune and Pierre la Marre was enquired into.

These proceedings were represented as unfair, unprecedented and highly injurious to the defender---It was said that, by the very nature of a *plainte*, the witnesses were led in giving evidence: and the alarming influence which this might have on the witnesses to be examined in this cause, was strongly insisted on. Their Lordships, after hearing counsel and advising on this important question,

tion, pronounced an interlocutor of date August 11, 1763, Expressing their disapprobation of Mr. Andrew Stewart's conduct in commencing so illegal a prosecution in France, and desiring that the depositions of the Tournelle witnesses might be cancelled, before they be admitted as witnesses in the present action. At the same time their Lordships allowed the Pursuers a proof of the facts in their condescendance; and the defendant an exculpatory proof: and commissioners were appointed by the court for that purpose.

The Tournelle process was still carrying on with great rigour, and a *monitoire* had actually been published, posted up in all the public streets of Paris, and read in all the churches, representing that certain persons, described by their country, ages, figure, and many other circumstances, had, in the year 1748, carried off, from Paris, a male child, born that year; and admonishing those who knew any thing of such an *enlevement* to make their *Revelations* to their respective Curés, in order to produce a discovery.

It was upon a representation of this injurious proceeding of the Tournelle Criminelle, that the Lords of Session pronounced the interlocutor of the eleventh of August, ordering an immediate stop to that process, and incapacitating the witnesses who had been examined in it to give evidence in this cause, till their former depositions were cancelled.

The Monitoire had, however, by this time, produced a remarkable discovery. One Mignon,

non, a glass-grinder at Paris, gave in a *revelation* to the Curé of his Parish, importing, that, in July, 1748, and about the middle of that month, a lady and gentleman, answering exactly to the descriptions of Sir John and Lady Jane in the *Monitoire*, had carried away a son of his, on pretence, " That the new-born son of a Lady of their acquaintance had just died, unknown to his mother; that they were obliged to keep it a secret from her for some time, as she was indisposed; and this they could not do, unless they could procure a child to pass upon the mother as her own." That he consented, upon condition they would return the child soon, which they promised, but that he had never seen the gentleman, lady, nor his child, since. *Revelations* were likewise transmitted by several witnesses, who had known Mignon's child, or were privy to its *enlevement* in 1748. These *revelations* were removed into the *Tournelle*, and were strongly corroborative of the charge against Sir John and Mrs. Hewit.

In consequence of their Lordship's interlocutor of the eleventh of August, Mr. Andrew Stewart presented a *requete* to the *Tournelle* on the thirty-first of August, praying for a cancellation of the *Tournelle* depositions; or, if that was impossible, for inspection. But this could not be procured without letters patent from the king. An *arret*, therefore, was pronounced by the court, ordaining an application to be made to his majesty for that purpose. On the twelfth of September Mr.

Stewart

Stewart presented a *requete* to the French king in terms of the *arret* of the Tournelle, praying for the inspection only of the Tournelle depositions: and, on the twentieth of October, another *requete*, in name of the defender, was presented to the king, praying for cancellation only. Upon these *requetes*, an *arret* was pronounced on the twenty-eighth of October by the king and council; by which it was ordained "That the criminal action before the Tournelle should be pursued and continued till it be concluded by a judgment definitive; when an authenticated copy should be transmitted in a sealed bag to the Court of Session in Scotland, in order that the judges might make such use of it as they should think proper in the civil process; and that four of the French gentlemen, named by the defendant, and three of the five named by the Pursuers, should execute the commission of the Court of Session within the kingdom of France, in the manner prescribed by that commission."

The commission of the Lords of Session being altered in every material point by this *arret*, the doers for the defendant declined acting under it---and gave in a petition to the court in Scotland, dated December 1st, 1763, praying their lordships to find, that there could be no further procedure, within the dominions of France, upon their lordships commission, as new-modelled by the French king's *arret*; on this petition an interlocutor was pronounced, December 9th, pro-

prohibiting and discharging the Pursuers, and Mr. Andrew Stewart their agent, from proceeding, upon the act and commission formerly issued, to examine any witnesses in France, till the court should signify its further directions concerning such an examination.

This interdict was, however, soon removed, and the proof, upon the former act and commission, allowed to proceed, with and under the conditions therein contained. Copies of the whole *plaintes* given in by Sir Hew Dalrymple and in name of the Duke of Hamilton, and his tutors, were, at the same time, ordered to be produced by the Pursuers for the inspection of the defendant's doers. This decree of the court is dated December 21.

A petition was given in for Mr. Douglas, of date December 22d, setting forth, that it was equally necessary for the defender to have inspection and copies of the declarations or *Revelations* emitted before the Curés, as to have copies of the *Tournelle* depositions; that the *Monitoire* was an infamous paper dispersed through the streets of Paris, and describing Sir John, Lady Jane, and Mrs. Hewit particularly, by their ages, stature, country, &c. that, where a crime is committed, as in the case of murder, it may be very proper to set forth the fact particularly in the *Monitoire*, and call upon all persons to reveal to the Curés what they know of such a murder; but if a crime is only suspected, as in the present case, it must be exceedingly improper to set forth, in the *Monitoire*, that such a
a crime

a crime has actually been perpetrated, and to mention the evidence from whence the proof of the fact is inferred; and then to require persons to reveal what they know of these facts; that it must be also improper to describe the persons suspected of the crime, in such a manner as to lead witnesses to point them out." The petition concludes with praying their lordships to allow inspection to the defendant of all the revelations or declarations emitted to the Curés; and in the mean time, to grant an interdict, prohibiting the Pursuers from proceeding in taking their proofs until judgment is given upon this petition, in case their lordships shall order it to be answered."

Their lordships, by an interlocutor of date December 24th, 1763, refused the prayer of this petition; upon which Mr. Douglas entered an appeal to the House of Lords, from this interlocutor, and that of December 21st, in so far as it removes the interdict of the 9th of that month, and allows the proof upon the act and commission formerly granted, to proceed: and in so far as it only obliges the Pursuers to comply with the conditions contained in the former act and commission, without incapacitating the witnesses examined in the Tournelle, or, at least, requiring cancellation of their evidence.

In consequence of this decree of the lords, the Tournelle process was dismissed, and, by a new interlocutor of the court of session, a proof was allowed, and commissioners ap-

pointed for taking it in several different countries. The proof once begun was carried on with vigour. Repositories were searched; all letters, papers, and writings that had the smallest connection with the cause were traced and exhibited. In short, no expence or trouble was spared on either side. Evidence was procured, by virtue of their Lordship's commission, in Portugal, France, Germany, Scotland, and England. In fact, most of the countries in Europe have furnished witnesses to this important cause.

Mean while Mr. Douglas, having the verdict of a jury in his favour, was put in full possession of the estate of his deceased uncle. An attempt, indeed, was made by the Pursuers, after the commencement of this action, to have the estate sequestrated, till a decision should be obtained; but it proved abortive.

The *suite* of Mr. Andrew Stewart's discoveries in France hindered us from observing, in it's proper place, that the Pursuers, immediately after the commencement of this action, presented a petition to the Lords of Session, setting forth, that Sir John Stewart was preparing to leave the country; and as his account of Lady Jane's delivery was of consequence, they prayed that he might be examined by the court, and that the declaration which he emitted might be sealed up, to lie *in retentis*, till a proof should be

be allowed and taken. Sir John was accordingly examined three successive days in Dec. 1762. He had just recovered from a dangerous fit of sickness; so that his memory, naturally none of the best, was greatly impaired. This he signified to their lordships, his examiners, and hoped that they would not take advantage of every little inconsistency in which want of memory, age, weakness of mind, or distance of time, might involve him. His declaration, afterwards produced in the proof, is uniform in the leading points: in less material circumstances, such as the defender's nurses, &c. it is often inconsistent with itself, and with the deposition of Mrs. Hewit. This declaration was sealed up, in terms of the petition, till the summer-sessions, 1765, when the proof taken in foreign countries being soon expected at Edinburgh, the Pursuers thought it of consequence, to procure such a material piece of evidence; and therefore presented a petition, praying, that certain parts of the proof which had been taken to lie *in retentis*, particularly the judicial declaration of Sir John Stewart of Dec. 14, 15, and 16, 1762, might be opened and taken into the printed proof. This petition produced answers, replies and duplies; but the court deferred advising it, first till the proof was reported, and afterwards, till it should be printed. This question was resumed on the

6th of March, 1766, when, after a long and interesting debate, counsel being previously heard at great length, an interlocutor was pronounced, ordaining Sir John's declaration to remain sealed till the 15th of April; and allowing either party, after that day, upon applying to the Lord President, and obtaining his lordship's authority, to have access to it. Against this decree an appeal was entered for Mr. Douglas; but was afterwards withdrawn. The declaration was opened April 30, and afterwards printed in the Pursuer's proof.

Sir John Stewart did not long survive his judicial declaration. Before he died, he drew up a declaration properly attested, in which he calls God to witness, in the most solemn manner, that the defendant is his and Lady Jane's son.

By the interlocutor of August 10, 1764, the proof to be taken was appointed to be reported February 1, 1765. The time for reporting, was, however, afterwards prorogued till the summer session the same year. In December following the proof was ordered to be printed forthwith, so as to be given in soon after the Christmas vacation. It was not, however, given in to their lordships till the end of February, 1766, a delay which is very easily accounted for by its enormous bulk. It is printed in large quarto, and amounts--that for the Pursuers, to one thousand and eighty-four pages---that for the defender to one thousand and thirty-six.

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The pleadings on the proof, or the hearing in presence, were delayed till June following; against which time, short cases were ordered to be given in, stating the heads of argument which either party were to insist upon in the pleadings. This order was complied with; and on the first of July, a few days after the cases were given in, the pleadings began---They continued till August 1, when the court appointed memorials on these pleadings to be given in on the twenty-seventh of September---proposing to advise the cause on the twenty-fifth of November following.

The proofs on which the pleadings and memorials were founded, are nothing else than the depositions of witnesses for establishing the facts which have been mentioned in this narrative---that of the Pursuers, to establish the enlevements, and their application to Sir John and Lady Jane--the alibi at Godefroi's, on the tenth, the day of the pretended delivery---and Lady Jane's equivocal appearances of pregnancy---that of the defender, to establish his filiation, by proving the pregnancy, delivery and convalescence of Lady Jane.

A strong part of the defender's proof has not yet been mentioned---In the course of their enquiries at Paris, the agents for the defender, discovered a house, in an obscure quarter of the Fauxbourg, where a Madame la Brun, agreeing with the description given

by Sir John and Lady Jane, had lodged--- they have likewise indisputably proved, by the depositions of Menager, surgeon to the Prince de Turenne, and others, that in 1748, there did exist, at Paris, a Pierre la Marre, a man-midwife---that this Pierre la Marre did, in that year 1748, and in the month of July, deliver a foreign lady of quality, at the house of a Madame la Brun, of two male children, the eldest of whom returned to Rheims with his mother; the youngest being put by him to nurse. The nurse of Sholto, at the Haute-borne has been likewise found.

But to return to the proceedings----The memorials, which were ordered to be given in on the twenty-seventh of September, 1766, were, by necessary delays, kept back till the twenty-fourth of January following. Their length, indeed, accounts sufficiently for the time taken up in getting them ready---that for the Pursuers amounting to between eight and nine hundred pages, and that for the defender to between six and seven hundred pages, large quarto.

The Lords, considering the size of the memorials, and the great importance of the cause, delayed advising it till June following; and, in the mean time, appointed the parties to make such observations on each other's memorial as they should think proper. In June, 1767, additional memorials were given in by both parties; Mrs. Isabel Walker, now Mrs. Glass, who attended
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Lady Jane to France, was examined in court; and the cause was once more delayed to be advised till the seventh of July, when the Lord President opened the debate with a very elegant speech, declaring for the reduction of the service. Lord Strichen spoke next on the opposite side. The debates continued till Tuesday the fourteenth, when, by the President's casting vote, the cause was determined in favour of the family of Hamilton. From this decree of the Court of Session, Mr. Douglas has entered an appeal to the House of Lords: and the decisive sentence of that right honourable house is expected with impatience.

Thus I have given a full and concise narrative of the facts which gave rise to this important cause; and the different proceedings in England, Scotland, and France, from the commencement of the process of reduction before the Court of Session, in December 1762, to the late decision of that court, in July last.---The order, too, was the most natural which presented itself. The allegations of the Pursuers, for disproving the defender's filiation, being the result of the enquiries made in France, in consequence of the suspicions which had been entertained of the imposture, properly enough succeeded the defender's state of facts, relative to the pregnancy and delivery of his reputed mother, and the motives of the family of Hamilton, to encrease the reports which had been industriously propagated to her disadvantage.

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It remains to be observed, that a verdict, founded on the evidence produced at the service, having been pronounced in favour of Mr. Douglas, the facts deposed to by the witnesses, must remain unconcussed till the evidence is falsified, the service rendered erroneous, and the verdict annulled, by a final decision, establishing the truth of the Pursuer's allegations, and the reality of the imposture. This remark deserves attention, as it accounts for the seeming partiality in the narrative.



REMARKS

R E M A R K S, &c.

DEAR CHARLES,

I SEND you, at your request, a few detached remarks on the first part of the Hamilton memorial.

An action so singular in its nature, as that maintained against Mr. Douglas, and involving, in its decision, such a train of consequences, deserves to be canvassed with the utmost impartiality and attention. To deprive a man of his state, fortune, friends, and even name; to brand with everlasting infamy, the memory of his reputed parents; these, my friend, to mention no more, are mighty serious matters; yet these are among the number of obvious consequences with which the late extraordinary decision, if final, must be attended.

As it was not the object of the agents for the duke of Hamilton to discover, but disguise, the truth, I am not at all surprised at the extreme difficulty with which the most dispassionate enquiry is accompanied. In fact, the Pursuers in this cause have left no arts untried to embarrass and perplex it. They have represented it as an action of dark and difficult investigation;—why?—as an apology for the confusion in which they themselves have involved

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it. They have framed, at different times, different hypotheses, totally inconsistent with one another, yet so artfully blended as to increase the intricacy; and, to crown the whole, they have loaded their proof with a heap of rubbish, manifestly calculated to perplex the reason and bias the judgment. But it is now time to proceed to the proper business of this letter. I lately perused both memorials for the second time. Without remarking at present on the respective merits of each, I found, in the one as direct and ample a proof of the *pregnancy, delivery, and reconvalescence*, as, at this distance of time, could possibly be expected. To counter-balance, nay, destroy this proof, I found in the other a few suspicious circumstances of conduct, which, in my opinion, a single acknowledgment of parents, is more than sufficient to overthrow. For why, my dear Charles, are these circumstances suspicious? For two obvious reasons—first, because, at the distance of sixteen or seventeen years, we cannot assign the proper or true motives for every trifling piece of conduct; and, secondly, because, it is very difficult to detach the idea of the actual commission of a crime from the person who is charged with it. Upon the whole, the variety of evidence produced by the defender must, I think, impress a conviction upon the mind which can be diminished by nothing less than the amplest direct testimony on the part of the Pursuers.

I shall now proceed, without any further preamble, to the remarks themselves, loose and unconnected as they are.

The Pursuers, you know, first examine and attempt to confute the direct proof brought of the defender's filiation; and then state the facts respecting the two *enlevements* at Paris, which they apply to Sir John and Lady Jane.

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The following remarks are confined to the first great branch, the examination of the defender's proof: and are sent you in the manner and order, in which they occurred to myself.

I.

"The custom of women with child," say the Pursuers in their memorial, "recommending themselves to the prayers of the convent, would make the nuns more apt to take the idea of her being with child, and give attention to any appearance of it which she assumed, than any other persons would be."—Pursuer's Memorial, Part 2, Branch I, p. 38.

It was not till her last visit at the convent that Lady Jane recommended herself to the prayers of the nuns. At the very first, and all the subsequent visits, they were struck with her appearance, and entertained scruples at the suspicion which suggested itself, as being then ignorant of her marriage with Sir John Stewart—See their depositions. This circumstance, seemingly trifling as it is, deserves attention. Many misrepresentations of the same kind will present themselves to the judicious and careful enquirer, in different parts of the memorial. These, as they turn mostly upon trivial circumstances, have little effect by themselves; but when viewed together, have a surprizing influence on the mind.

II.

In examining the proof arising from appearances of pregnancy, the Pursuers seem at a loss which hypothesis to adopt; whether Lady Jane assumed appearances of pregnancy; or, in fact, had none of the appearances which usually attend women in that situation. They adopt neither hypothesis professedly, but assume one compounded of both; which,

they pretend, was the most proper conduct for Lady Jane to observe. It would have been difficult else to assign a reason, why that lady, contrary to the uniform practice of impostors of this kind, should have made so little ostentation in displaying appearances, whence her sole proof, on the supposition of an imposture, must have been founded.

III.

In perusing the Pursuer's memorial it frequently occurs to be remarked, that, previous to the arguments employed in the course of the reasoning, it seems to be laid down as an axiom, or proposition already demonstrated, that Lady Jane was certainly guilty of the crime of *supposition of children*, with which she is charged. This hypothesis being once established, it is the easiest thing imaginable to reduce every circumstance of conduct, for which proper motives cannot, at this distance of time, be assigned, to that false standard. But this method of reasoning is unfair and illegal—Facts and circumstances are to be considered impartially; and the motives which give rise to them must never be conjectured, or made to tally with a favourite system or hypothesis. They must appear from proof. Every man is presumed innocent, till he is proved to be guilty. In the present action, the defender is presumed guilty, to aid and supply the defects of a proof finding him so. This remark, as I said before, occurs to be applied in almost every page of the Pursuer's memorial.

IV.

The Pursuers make a great bustle about their concealing from every body that Paris was the place of their destination. It does not appear from proof that they had resolved to go thither till after
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they were at Rheims. Besides, from their own letters, it is evident that their intention, after leaving Scotland, was to go to France; and we accordingly find, that, as soon as the communication was opened, and Aix became an inconvenient place of residence, by reason of the great resort of people of distinction to hold the congress, they removed to France.

V.

I cannot forbear repeating what is above remarked (see article 2.) that the Pursuers, in re-arguing the proof from pregnancy, at different places, avail themselves equally of all the depositions, however inconsistent with one another. If Mrs. Tewis, Lambinon and his wife, Byres of Tonley, Mr. and Mrs. Hepburn, affirm positively that she was with child, and big with child, and mention her big belly, breasts, &c. as causes of knowledge; the witnesses are either falsified, as Mrs. Tewis; prepossessed by Mrs. Hewit with a belief that Lady Jane was with child, as Lambinon and his wife; or imposed upon by affected appearances of pregnancy. If Dudwick, &c. depose that they observed no appearances of pregnancy, as not concerning themselves about the matter, their evidence is brought as direct testimony—of what—of the non-existence of any pregnancy, whether real or affected. All that these contrary proofs can do, is, to induce a slight suspicion upon the supposition of an imposture, that Lady Jane did not uniformly retain her appearances of pregnancy; assuming them to some, and rejecting them to others;—a piece of policy little consistent with the artful character attributed to this lady by the Pursuers; or, indeed, with the abilities necessary to conduct so hazardous and difficult a design. But, even before this can be allowed, the supposition
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of children must be proved. When the crime is proved, it is then, and not till then, allowable to explain suspicious circumstances as tending to promote that crime. In the mean time, all circumstances which apply equally to a real, or pretended pregnancy and delivery, must be strongly probative of the defender's filiation, till he is proved by direct testimony, to be supposititious; when it is evident, these circumstances cannot apply to him as the real son of Lady Jane Douglas.

VI.

Chevalier Douglas advised Sir John, when at Liege, to carry Lady Jane to Paris to ly-in, as the best assistance could be procured in that capital; when Sir John does not seem to have formed any resolution of going thither; on the contrary, he informed the Chevalier, previous to his mentioning Paris, that he had taken, or was about to take, a house at Rheims. The Pursuers avail themselves much of a conversation which Mr. Hepburn of Keith deposes to have had with Sir John; where, among other things, he told him he was going to carry Lady Jane to Paris to ly-in. But this conversation was, in all probability, posterior to that with the Chevalier; or, perhaps, (which is more probable) Mr. Hepburn may, at this distance of time, have confounded the intended journey to Paris, as proposed by the Chevalier, and as concerted by Sir John himself. In any other view, it is very difficult to reconcile this information with the pretended air of mystery, which attends their destination to Paris. Is it probable too, that, if Sir John had told Mr. Hepburn of his intention to go to Paris with Lady Jane, he would, in a letter subsequent to the delivery, have made an attempt, as the Pursuers pretend, both by its date and contents, to have it believed, that Rheims was

was the place of delivery. It is true that the letter to Mrs. Hepburn, dated July 10, has not been found; but a subsequent letter referring to it, is in process; which, as the Pursuers pretend, is equally calculated to impress a belief that the delivery happened at Rheims. Thus their assertions stand refuted by one another.

VII.

To disprove the evidence of a threatened miscarriage at Rhetel, in the way to Rheims, the Pursuers adduce Mr. Guenet, a notary, who travelled with Sir John and his company in the coach from Charleville to Rheims. He deposes, that Lady Jane lodged only one night at Rhetel, and, that being fatigued, she went early to bed, but travelled next day at five or six in the morning, and appeared to be well. It is remarkable that this notary, who never saw Sir John and Lady Jane before nor since, save once, should give such particular descriptions of their persons, attendants, and every little circumstance respecting the journey at the distance of fifteen or sixteen years. Lady Jane might have been ill in her room, and Mr. Guenet not know any thing of it—but that is not material. Both Mrs. Hewit and Isabel Walker affirm that Lady Jane, before she reached Rheims, was threatened with a delivery: and that they should disagree as to the particular place upon the way from Aix to Rheims, whether at Sedan or Rhetel, is not to be wondered at; it would have been more surprising, and infinitely more suspicious, if they had, at such a distance of time, concurred in circumstances, at best, not absolutely essential to the cause. It is remarkable, that the main fact here, as well as in the other parts of the evidence, is agreed in by the two witnesses—it is in less material articles only they do not concur, and I repeat it, that
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a perfect and exact concurrence in such minute articles would have justly induced a suspicion upon their whole evidence. This observation will occur frequently to be applied in the course of this memorial. Lady Jane's long cloak might easily conceal her pregnancy from Mr. Guenet, especially as, he says, he paid no attention to it. Upon the same principle are explained the depositions of many of the other witnesses; as the travellers in the Rheims coach to Paris, &c.

VIII.

Great use is made of the hoop said to be worn by Lady Jane during her pregnancy, as favouring that double hypothesis which the Pursuers have framed. Had she wore a loose dress, and made continual ostentation of her pregnancy, we should have had another hypothesis invented, upon quite different principles indeed, but ultimately tending to the same point, to prove her children supposititious. That indeed is supposed by the Pursuers, and every incident, however unconnected with it, is brought as corroborative of that supposition. No dress, no conduct that Lady Jane could have assumed, would have escaped the misrepresentations of these Pursuers. The very idea of supposing her guilty of the crime suggests a belief that every step of her conduct during, and even previous to its perpetration, would have a direct tendency to promote that crime.

IX.

What should make it more improbable, that Sir John should tell lieutenant M^ckenzie of his intention to go to Paris, that Lady Jane might ly-in, than that he should give the same information to Mr. and Mrs. Hepburn at Liege, as the Pursuers pretend; and is that gentleman's veracity to be sacrificed

sacrificed to his fellow-prisoner Mr. M'Clean because the latter is now a major-general and governor of Almeyda, whereas the former is still no higher than a lieutenant? If degrees of credit in this cause were to be estimated by the rank or meanness of the witnesses, the Pursuer's chance for success would be as nothing: for a meaner or more despicable set of wretches was never exhibited evidence. It is remarkable that lieutenant M'Kenzie's deposition, which is so strong, and convincing, is entirely consistent with itself. The contrast betwixt the depositions of M'Kenzie and M'Clean may, with equal reason, be urged by the defender as an argument against the evidence of the latter. Mr. M'Kenzie's evidence has great force, even allowing a considerable abatement, (which is more than the defender is obliged to allow) for the contradictory proof of general M'Clean. In a word, the Pursuers can assign no reason for rejecting the strong testimony of Mr. M'Kenzie, but that it is strong, and in favour of Lady Jane.

X.

Is it not improbable that Lady Jane, who, by the Pursuer's own account, would not allow the mantua-maker at Aix either to take the measure of her body for widening her stays, or to try them on when widened, for fear of affording her opportunity of too accurate an examination of her person, should, at Rheims, when she must have been, or pretended to be, in the eighth and ninth months of her pregnancy, allow Sautrez, a mantua-maker, to take her measure, and try on some gowns, which she had fitted up in the French fashion? Miss Sautrez's memory is, indeed, incredible. She not only remembers that she had been employed by Lady Jane before her going to Paris, but condescends

scends upon the very days of the week when she was first sent for, when she tried on the gowns, and when she returned them. Her evidence stands contradicted, in every article, by the depositions of Mrs. Hewit and Isabel Walker.

XI.

It is incredible that Mademoiselle Hibert should have expressed such surprize upon hearing that Lady Jane was brought to bed at Paris, seeing, it is clear from the deposition of her brother the abbè, that he told her, tho' not directly, that Lady Jane was with child. His words are, "Do you know, my sister, to whom you hire your apartments? Do you perceive nothing?" "I perceive something." Her answer, ambiguous as she represents it, shows plainly enough that she understood him right; and, in this view, it is incredible to think that her surprize should be so extreme as she would have it imagined, even tho' her brother's discourse had not produced its natural effect; I mean, inclined her to examine Lady Jane's person with attention.

XII.

Mrs. Hewit and Isabel Walker, in their depositions, concur that the day on which Mr. Andrews supplied Lady Jane with money at Paris, was the same on which Lady Jane was brought to bed. This is not fact. The credit from Mr. Andrews at Rheims does not appear to have arrived till the twenty-sixth of July, whereas the delivery was always restricted to the tenth; yet in what manner this mistake could be made to support the imposture is not easy to discern. Mrs. Hewit speaks entirely from memory; and it is exceeding probable that Isabel Walker might have heard Mrs. Hewit say so many years after the fact happened; and

and deposed to that particular circumstance, without assigning the time or cause of her knowledge. For it is not in the smallest degree probable that Isabel Walker deposes upon the letter which, she says, she received from Mrs. Hewit upon that subject: neither is it to be believed that this letter, which appears to be lost, fixed the receipt of the money to the day of delivery, for two very good reasons. First, because no end could be answered by such a misinformation: for if the receipt of the money on the 10th of July, the day of the delivery, rendered it unnecessary to send for the servant-maid (the reason specified for mentioning the day the credit arrived) certainly its receipt on the 26th, 16 days after, rendered it still less necessary to send for them, or to make excuses for not doing it. But, secondly, it appears from proof that the letter notifying a supply of money was wrote posterior to that dated on the twenty-second of July, acquainting the maids of the birth. Hence, that letter must have mentioned the money as received after the twenty-second; else, when Mrs. Hewit wrote on the twenty-second, she would not have neglected to have joined with the delivery, the receipt of the money, which happened, by that account, on the same day.

XIII.

We have seen, by the concurring testimonies of Mrs. Hewit, Isabel Walker and lieutenant M^cKenzie, that Lady Jane had all the appearances of a woman very big with child, during her stay at Rheims; and these appearances are brought down by the same testimony---which the Pursuers may cavil at, but cannot refute --to the time when she enters the stage-coach at Rheims; at which time they agree she was so bulky that Major M^cClean and Lieutenant M^cKenzie were obliged to lift her into

the coach. These appearances of pregnancy, then existed when she was lifted into the coach. Yet Mademoiselle Vatry, and the other passengers in the stage-coach, observed no such appearances. Strange, that a pregnancy so remarkable to some, should entirely escape the observation of others ! How can the Pursuers extricate themselves from this dilemma; or reconcile the depositions of these passengers in the Rheims stage-coach, with the favourite hypothesis they have framed to themselves ? For either Lady Jane had such appearances when she entered the coach, or she had not. If she had the appearances deposed to by M^cKenzie, &c. she could not have thrown them aside in the coach ; and the evidence of the passengers amounts to no more than that they gave so little attention to a woman they never saw before nor since, that it is impossible for them, at this distance of time, to recollect whether she was apparently with child or not——which indeed is the sum of all evidence of this kind——Or, secondly, if Lady Jane had not these appearances when she entered the coach, then have all the witnesses brought to prove that fact been guilty of deliberate and wilful perjury ; for which there is neither foundation in proof, nor right reason. It is remarkable, that Mademoiselle Vatry, accurate as her memory is in describing the minutest circumstances relating to a woman whom she saw but once, and that at the distance of sixteen or seventeen years, never mentions the two gentlemen who attended Lady Jane to the coach, and lifted her into it ; tho' she says, that Sir John and his company came to the Coach-Office, where she was, and where she certainly had an opportunity to see and remark the two gentlemen who attended Lady Jane, and paid her such uncommon assiduities. The Pursuers, in order to avail themselves of the depositions of these pas-

passengers, must get entirely clear of Mr. M'Kenzie's oath; otherwise their depositions are of no effect. They cannot suppose it possible that Lady Jane should, all on the sudden, remove appearances, which were so visible on her stepping into the coach some minutes before.

XIV.

Madame Audry's description of the only woman she remembers to have seen in the coach, applies, in every particular, to Mrs. Hewit alone—so that it is evident, she does not recollect Lady Jane:—and, indeed, it is a good deal surprizing that miss Vatry and her maid should have so distinct a remembrance of every little incident that happened during the journey; the number of passengers, their seats, &c. when Madame Audry, who appears, at least, of equal veracity, does not remember any of the passengers but Sir John and Mrs. Hewit—or whether they were men or women who made up the rest of the company. If Miss Vatry paid such uncommon attention to Lady Jane, as she pretends, how happens it that she never observed the appearances of pregnancy, which, we have demonstrated, did exist while she was in the stage-coach? It deserves attention too that great expectations were formed from the evidence of Madame Audry, after she was discovered: and she is mentioned with great pomp and eclat, in the condescendance of facts offered to be proved by the Pursuers. Vide Condescendance. Article 13. I.

XV.

The Pursuers lay hold of an expression in a letter of Sir John to his son, the present Sir John Stewart, of Grandtully, restricting the delivery to the middle of July. But it will be remarked that this letter was not written till September the
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nineteenth; that it is a very common way of speaking, and never to be understood strictly and literally; and that Sir John could not possibly mean any other than the tenth; as he had, in so many letters, of a prior date, assigned that day as the day of the delivery.

XVI.

It is remarkable that the note of particulars given to Mrs. Napier by Sir John, assigning *Michelle's* as the place of the delivery, was written at the time of the first conversation which that lady had with Sir John upon the subject. This observation has considerable weight; as it is obvious from Mrs. Napier's deposition that the whole of that note was merely conjectural, and written out of complaisance to the lady who insisted on a memorandum of names. Let us have recourse to her own deposition—she deposes “That, during that first conversation, Sir John expressly said, that, having, upon different accounts, been obliged to change houses often, about the time of Lady Jane's lying in, he could not then tell the precise house, where the children were born; but that he would consider of it at home, and make a note of all these circumstances.” But Mrs. Napier insisting that he would, in the mean time, make a note of such things as he recollected, he immediately wrote in her presence the memorandum, of date May the thirteenth, 1756, which has furnished such matter of exultation to the Pursuers. From this account, it is evident, that Sir John, at the time of this conversation, had no distinct remembrance of any of the houses, in which he had lodged while at Paris; and his mentioning *Michelle's* must only be regarded as conjecture.

XVII.

As *Michelle's* house had been assigned by Sir John as the place of delivery in the former note, merely,

as we have seen, through inadvertency, it is probable he would correct this mistake, when he perceived it. Accordingly Mrs. Napier deposes to a second conversation with Sir John; where, besides mentioning further particulars, he corrected the mistake of Michelle's name for La Brun, at whose house Lady Jane was delivered. The Pursuers have strained hard to fix this second conversation to a date posterior to the arrival of the letters from France, giving an account of the fruitless enquiries made there by Sir James Stuart of Goodtrees, and Principal Gordon, of the Scots College at Paris, to discover the place of the delivery. Sir John, they say, being driven out of one hold, betakes himself to another. But this account is altogether improbable. Mrs. Napier herself particularly mentions that this conversation happened about the time of her lying in; and it is more probable before than after; because a memorandum of names, which she then took down from Sir John, and upon which she meant to found a second letter to Lady Fanny Stewart in France, had been thrown aside, and neglected for some time, in all probability, from the hurry and confusion which usually attends a delivery. Mrs. Napier was delivered the fifth of August; and Lady Fanny, in her letter of the twenty-eighth, mentions her delivery as a piece of news they had just heard. So that it is most probable this second conversation happened in the interval betwixt Mrs. Napier's first writing to France, and the day of her delivery. It might, indeed, have been after the delivery, and yet long before Lady Fanny's letter arrived. Besides, is it to be supposed that Mrs. Napier would not have immediately suspected the variation of the name, if it had been in consequence of the information received from France; or, that she could not give a direct answer to this question,

question, "Whether this second conversation was prior or posterior to the information received from Lady Fanny," when so material a variation, in consequence of that information, must have struck her very strongly when it happened, and stamped an impression which time itself could not efface? The circumstance of Mrs. Napier's ignorance of the precise time when Sir John made so remarkable a variation, is a strong and convincing argument that Sir John made this correction before he had heard any thing relative to the success of the enquiries in France.

XVIII.

It is altogether improbable that Sir John should have mentioned Michelle's, as the place of delivery, to Mrs. Napier in his first conversation with that lady, if he had been conscious of the crime of supposition of children. For, upon the supposition of an imposture, it is the most unlikely thing in the world, that, in assigning the place of the birth, he should name one of the houses, where he actually resided during his stay at Paris; and where the first enquires would, in all probability, terminate in discovering the cheat. Where now is that duplicity of conduct which the Pursuers pretend to discover in every action of Sir John? Let us suppose him as artful as they please; was it acting in character to assign as the place of delivery, and by a very full and particular direction, a house where he knew he had lodged a considerable time while at Paris; and where he likewise knew no such delivery had happened? Was he not aware of the fatal consequences with which the very first enquiries must be attended? Must it not have occurred to him that the people of that hotel would immediately deny that any such delivery had happened there? that, indeed, a foreigner and his lady, answering to the description

scription of Sir John and Lady Jane did lodge at their hotel some time in summer, 1748; but that the lady had been delivered before she arrived there? Is it not evident that the only chance which he had for success was to name a house which had no existence but in his own imagination? The danger of detection must have manifestly suggested the latter; common-sense must have taught him the absurdity of the former. In fact, the Pursuers have totally misrepresented the character of Sir John Stewart. He had faults, but artifice and cunning were not among the number. Sir John was open, generous, affable, rash and impatient, and endued with that nice sense of honour which is little consistent with the mean arts ascribed to him by the Pursuers. A man of such a character could not have been guilty of the crime with which he is charged—could not have concealed it, if guilty. This character, and this unavoidable consequence which I have drawn from it, are deposed to by several witnesses, who had opportunity to be intimately acquainted with him. One, in particular, deposes, that, supposing Sir John had been guilty of the crime of counterfeiting children, she believes, he could not have kept it a secret; such was the natural precipitancy and impetuosity of his temper.

XIX.

If Sir John Stewart had got a perusal of the packet of writings delivered over to Mr. Brown, agent for the defender, by Mr. Orr, and slipped into it the note declaring the delivery to have happened at la Brun's, and narrating a number of other particulars, is it to be supposed that he would have left his first note of May the thirteenth, 1756, which he had given Mrs. Napier, assigning Michelle's as the place of the birth? This would have been to furnish evidence against himself. If

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he could, unobserved by Mr. Brown, or with his connivance, slip in such a note, he certainly could, with equal facility, have got rid of the other note. And Mr. Brown, if it had happened without his knowledge, as the Pursuers suppose has happened in the case of the other note, could safely say, that it had been laid aside and that he did not know what was become of it.

Mr. Brown's account of this second note appears extremely natural and probable; namely, that he found it wrapped within one of the papers marked and numbered by Mr. Orr; and therefore it was not inventoried. And this account is confirmed by Mr. Orr; who deposes that he would not know any of the papers but from the markings put upon them with his own hand.

XX.

In a third note, in Sir John's hand-writing, produced by Mr. Loch, the delivery is placed at Madame la Brun's. It appears to have been written in 1758, or 1759. Upon the back of a testament intended to have been executed by Lady Jane there is a scroll in Mr. Loch's hand-writing, which he deposes to have taken down from Lady Jane's own dictation. Lady Jane, it is to be observed, died in 1752, long before any enquires had been made into the truth of the birth. It is remarkable, that, in this scroll, the birth is said to have been at Madame la Brun's. This was a strong circumstance; the Pursuers saw its force, and have done all they could to destroy it. They have endeavoured to evince that this scroll was not taken down from Lady Jane's dictation, as Mr. Loch, a witness of character, has expressly sworn, but copied by Mr. Loch from that note in Sir John's hand-writing which was produced by him. And to support this wild and absurd assertion, an ingenious critique has been made on the two notes, their similitude
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in spelling, &c. evidently with a view to destroy that part of Mr. Loch's evidence in the service, which relates particularly to Lady Jane's declaration of the particulars of the birth. The two notes, however, upon inspection, are not so very like as the Pursuers pretend. In Sir John's there is no mention either of the names of the children, or the day of the birth; both which particulars are in the scroll—A very remarkable difference. In Sir John's, Faubourg St. Germain. In the scroll, Sanbourg St. Germaine—An error which Mr. Loch, who understands French, would not have fallen into by transcribing. Lastly, in Sir John's is a name, Madame la Fevre, which, being material, would not certainly have been omitted in the scroll, had the latter been a transcript of the note. Upon the whole, this scroll produced by Mr. Loch appears to have been a declaration taken from mouth, as it contains a full history of the delivery.

XXI.

Lady Jane's pocket-book, which particularly mentions the day of the delivery, and that of the weaning of Archibald, is a strong circumstance of evidence in favour of the defender. The particulars in the pocket-book plainly evince, that it was never designed for public inspection: her silence with respect to places, names, and other incidents, while at Paris, of which the Pursuers avail themselves so much, is easily explained, on the supposition of a real delivery. Her situation at Paris would not allow her to be so exact in inserting particulars—there was no occasion to insert Godefroi's name, because they evidently put up there only till they should be provided with furnished lodgings. At la Brun's the delivery happened, and at Michelle's, it is proved, she was

still very weak, as a woman after delivery. The Pursuers have suppressed the mention which is made of La Marre in the pocket-book, as a person with whom Sir John corresponded—A strong piece of evidence.—If this pocket-book had been intended to corroborate the belief of the imposture, it is probable it would have contained articles respecting the birth calculated to remove all suspicions.

XXII.

Much pains have been taken by the Pursuers to demonstrate that Lady Jane, in her allusion to certain letters from the man-midwife, must have meant the four letters from Pierre la Marre produced at the service, and considered by them as forgeries. It is remarkable that only one witness, Mrs. Menzies, deposes to her having ever mentioned any thing of letters—and then it is only one letter—how it should be separated from the other three, which the Pursuers pretend she then had in her custody, or be particularized in this manner, let the Pursuers tell. It is in proof that Sir John heard from La Marre once a fortnight while at Rheims, and the pocket-book particularly mentions a letter wrote by Sir John to La Marre while at Rheims. The Pursuers, with great art, have endeavoured to prove that the fourth of La Marre's letters, wrote in 1752, is the same with one deposed to by Isabel Walker and Mrs. Hepburn. But upon a close examination, they will be found entirely different. The letter Isabel Walker alludes to, enquired particularly after Sir John, Lady Jane and the children. La Marre's letter is in answer to one from Sir John informing him of the welfare of the children. Further, this last letter contains a declaration of the delivery and day on which it happened--No such thing in that alluded to by Isabel Walker—Indeed Mrs. Hepburn

Hepburn deposes that Isabel Walker told her of a letter which Sir John Stewart said was from La Marre, and at which he was exceedingly angry, and damned him, and said, "What! was he proving to him that he had brought Lady Jane to bed?"—This letter would seem to refer to the fourth letter produced at the service, but the similarity is only in appearance. This fourth letter is plainly an answer to one from Sir John—and accordingly, in his declaration, Sir John says that it was in return to a letter desiring him to write particularly as to the dates of the birth of the children.—How can this be reconciled to the account given by Isabel Walker of Sir John's being in a violent passion for writing what he desired him?—Besides, Isabel Walker deposes that the letter she alludes to was delivered by her to Sir John, and brought by the post.—That of Pierre la Marre was brought by a private hand.

XXIII.

A letter is produced from Mrs. Hewit to Mr. Harper, minister, dated eleventh January, 1763, retracting that part of her deposition in the service which represented Lady Jane as staying ten days after her delivery in the house where she was delivered. Mrs. Hewit now, entirely from memory, says, it was the sixth day after that she was removed, on account of the bugs. The exhibiting of this letter plainly shews the great straits the Pursuers are reduced to—else they would not have hazarded the exhibition of a letter which makes directly, and in the strongest manner, against them. Mrs. Hewit, upon reading over the service, thinks she has committed a mistake in making their stay at La Brun's ten days after the delivery—she can give no reason why she thinks so, but that she remembers.—She applies to get it corrected, but cannot succeed;
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upon which she writes to her minister the case as it stood, and desires to be satisfied on the scruples which that had occasioned her. The air of sincerity and unaffected concern with which the letter is written, speaks better for it, than any comment. Is it to be supposed that a woman who seems so concerned for a slight mistake, which she imagines she has made upon oath, would have deposed to such a string of falsehoods, in support of an imposture in which she herself had a principal share?—Besides, what reason can be assigned why she should, consistent with the support of the imposture, vary the number of days? That question has not been, cannot be answered by the Pursuers.—And as Mrs. Hewit, in that letter, speaks entirely from memory, it cannot in the least invalidate the testimony of her conversation with Isabel Walker after her return to Rheims, which places her leaving La Brun's after the ninth or tenth day.

So much for the declarations of Sir John, Lady Jane, and Mrs. Hewit, in favour of the defender—Pierre la Marre the man-midwife, and Madame la Brun, in whose house the delivery happened, unluckily died before the commencement of this cause. That such persons, however, existed, has been indisputably proved.—By the depositions of Menager and others, it appears, that a Pierre la Marre did, in the month of July, 1748, deliver a foreign lady of quality in the house of a Madame la Brun, of two male children; one a sickly boy, whom he put to nurse at the Haute-Borne near Paris—and the other strong and healthy, who went soon after with his father and mother to Rheims; the youngest still continuing under his care. This description agrees, in every circumstance, with the account given by Sir John and Lady Jane. Nay, farther, the nurse Garnier, at the Haute-Borne, has been likewise found; and her

her account agrees remarkably with that of Menager.

Mr. Menager is a man of probity and character; and, whatever means the Pursuers have used to get rid of his strong deposition, it still remains entire, and unconfuted, in the smallest article.

Admitting an imposture, the Pursuers themselves must acknowledge, that Sir John and Lady Jane have been mighty fortunate to name for the accoucheur, a man who had actually performed, in the house of a Madame la Brun, a delivery exactly similar to that pretended by Lady Jane.

I shall finish these remarks with a short extract from Dorando, a Spanish Tale.

“ Here then is a process, the intention of which is to stigmatize with infamy a lady of the noblest blood in Europe.—We have the continued acknowledgement of parents—we have their positive and dying testimony ; with the positive and dying testimony of a woman who was present at the birth of the defendant. Is it to be believed that all this should be a complication of guilt, of deliberate and down-right perjury ? Not without a strong proof indeed. And what is the proof that has been brought ? These testimonies remain untouched. They are uniform and consistent in the grand point. Upon what then do the Pursuers rest their extraordinary plea ? Why, upon a number of suspicious circumstances of conduct, picked up at the distance of sixteen years : picked up from the streets of Paris, from the very dregs of the French Canaille.”

I am,

Dear Charles,

Yours, &c.

testimony agrees remarkably with that of Mr. Messer.

Mr. Messer is a man of probity and character; and, whatever means the Puritans have used to get rid of his strong deposition, it still remains

earnest and uncorrupted, in the smallest article. Admitting an imposture, the Puritans themselves acknowledge, that Sir John and Lady Jane have been mighty fortunate to name for the

accused, a man who had actually performed, in the hands of a Madame la Fiance, a delivery exactly similar to the pretended by Lady Jane.

I shall not in these remarks with a short extract from Dorando, a Spanish Tale.

There then is a process, the intention of which is to determine whether a lady of the noble blood in Europe. We have the copiousness of

and the judgment of parties. We have the positive and the negative testimony, and being

of the depositions, it is in the power of the jury to decide that all this

should be a complete of guilt, of deliberate and down right perjury. For without a strong proof indeed. And what is the proof that has been brought? I have not time to mention it.

Let us suppose a woman and companion in the grand jury. Upon what then do the Puritans rest their extraordinary plea? Why, upon a number of circumstances of conduct, picked up

in the office of fifteen years; picked up from the files of Bury, from the very files of the French Chamber.



I am,

Dear Sir,

Yours,

